



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE  
DIRECTOR

May 29, 1990  
AO-90-20

Wade M. Welch, Esquire  
Town Counsel  
Town of Winchester  
45 School Street, 1st Floor  
Boston, MA 02108

Dear Mr. Welch:

This letter is in reponse to your request for an advisory opinion.

You have stated that on March 19, 1990, the Town Clerk for the Town of Winchester (the "Clerk") received a complaint pursuant to section 28 of M.G.L. c.55, alleging that the League of Women Voters of Winchester (the "League") had not complied with certain of the campaign finance laws (the "Complaint").

The Complaint alleges that the League and its president failed to file a Statement of Organization of a Political Committee, as required under the general laws for political committees influencing the vote on a ballot question. The complaint arose as a result of mailing the League's March 1990 newsletter, which contained the League's position on an upcoming ballot question, to members of the public.

You have inquired whether the allegations as set forth in the letter would require the Clerk to file notice with the Attorney General pursuant to section 29 of M.G.L. c.55.

Section 28 of M.G.L. c.55 states, in pertinent part:

If . . . upon written complaint by five registered voters that a statement or report does not conform to law, or that any candidate or political committee has failed to file a statement or report required by law, the city or town clerk, as the case may be, shall, in writing, notify the delinquent person. . .

Section 29 of M.G.L. c.55 states, in pertinent part:

Upon failure to file a statement or report within ten days after receiving notice under section twenty-eight, or if any statement filed after receiving such notice discloses any violation of any provision of this chapter, the city or town clerk, as the case may be, shall notify the attorney general thereof and shall furnish him with copies of all papers relating thereto .

It is the opinion of this office that the first step in determining whether the Clerk would have a duty to refer the alleged violation to the Attorney General for further review, is determining whether the Complaint states a colorable claim for a violation of the campaign finance law. The Complaint alleges that the League failed to file as a political committee because of certain expenditures made by the League in support of a ballot question appearing on the town ballot. There is no allegation that the League was soliciting money on behalf of the ballot question.

This office has stated that if an organization solicits or receives any money or other thing of value for political purposes, the organization is functioning as a political committee, subject to the provisions of the campaign finance law as of the date of the solicitation or receipt of such money or other thing of value. See Interpretative Bulletin, IB-105, "The Applicability of the Campaign Finance Law to Organizations Other Than Political Committees," a copy of which is enclosed for your information.

This office has further stated in the same Interpretative Bulletin that any organization (other than a corporation) which is not soliciting or receiving monies for a ballot question but which is making expenditures for such ballot question must disclose such expenditures on a Form CPF 12. Corporations (both profit and non-profit) making expenditures for ballot questions are subject the reporting provisions of section 22 of M.G.L. c.55.

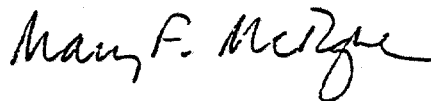
It is therefore the opinion of this office that the Complaint, on its face, does not allege activity which could be deemed to be a violation of the campaign finance law. If, as the Complaint avers, the League made only an expenditure for a ballot question but did not solicit or receive anything of value for such purpose, it would not be in violation of the campaign finance law for failure to file a Statement of Organization of a Political Committee. It would therefore follow that in this instance the Clerk would not have a duty to refer the specific matter referenced in the Complaint for further review by the Attorney General.

Wade M. Welch, Esquire  
May 29, 1990  
Page 3

This opinion is based solely on the representations made in your letter and has been rendered solely in the context of M.G.L. c.55.

Should you have additional questions, please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in cursive script, reading "Mary F. McTigue".

Mary F. McTigue  
Director

enclosure  
MFM/wp